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7  
8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2011-814

13 **STACEY ANNE HENDERSON**  
P.O. Box 713  
Bolin, CA 94924

**A C C U S A T I O N**

14 **Registered Nurse License No. RN 282378**

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing (Board),  
22 Department of Consumer Affairs.

23 2. On or about August 31, 1977, the Board issued Registered Nurse License Number  
24 RN 282378 to Stacey Anne Henderson (Respondent). The license was in full force and effect at  
25 all times relevant to the charges brought herein; it expired on November 30, 2010, and has not  
26 been renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY/REGULATORY PROVISIONS

6. Code section 2761 states, in pertinent part, that the Board may take disciplinary action against a licensed nurse for any of the following:

“(a) Unprofessional conduct, which includes, but is not limited to, the following:

“... ”

“(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.”

7. Code Section 2762 states, in pertinent part:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

“(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.”

1           8.     Code section 4060 provides:

2           “No person shall possess any controlled substance, except that furnished to a person upon  
3 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
4 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-  
5 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician  
6 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
7 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph  
8 (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the  
9 possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,  
10 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-  
11 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled  
12 with the name and address of the supplier or producer.”

13                                   COST RECOVERY

14           9.     Code section 125.3 provides, in pertinent part, that the Board may request the  
15 administrative law judge to direct a licentiate found to have committed a violation or violations of  
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
17 enforcement of the case.

18                                   CONTROLLED SUBSTANCES/DANGEROUS DRUGS

19           10.    Code section 4021 states:

20           “ ‘Controlled substance’ means any substance listed in Chapter 2 (commencing with  
21 Section 11053) of Division 10 of the Health and Safety Code.”

22           11.    Code section 4022 provides:

23           “ ‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in  
24 humans or animals, and includes the following:

25           “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without  
26 prescription,’ ‘Rx only,’ or words of similar import.

27           “(b) Any device that bears the statement: ‘Caution: federal law restricts this device to  
28 sale by or on the order of a \_\_\_\_\_,’ ‘Rx only,’ or words of similar import, the blank to be

1 filled in with the designation of the practitioner licensed to use or order use of the device.

2 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
3 prescription or furnished pursuant to Section 4006.”

4 12. Amphetamine, also known by recreational users as “speed,” is a psychostimulant  
5 drug subject to control under Schedule II controlled substances as designated by California Health  
6 and Safety Code section 11055, subdivision (d)(1), and a dangerous drug within the meaning of  
7 Code section 4022.

#### 8 CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct: Possession of a Controlled Substance/Dangerous Drug)

10 13. Respondent is subject to disciplinary action for unprofessional conduct under Code  
11 sections 2761, subdivisions (a) and (d), and/or 2762, subdivision (a), in that she possessed  
12 without a prescription a controlled substance and/or dangerous drugs in violation of Code section  
13 4060, subdivision (a). The circumstances are as follows:

14 14. On or about November 8, 2009, Respondent was confronted by police at Long Beach  
15 Airport after a TSA search of Respondent’s luggage revealed a white powder substance hidden in  
16 a shaving cream can with a false bottom. Respondent was carrying a cut straw and two baggies  
17 of a white powder substance in her purse. Respondent admitted to ownership of the baggies in  
18 her purse and inside the shaving cream can. She told the police the substance was “speed” and  
19 said it was her medication for pain resulting from hip replacement surgery.

#### 20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License Number RN 282378 issued to  
24 Stacey Anne Henderson;

25 2. Ordering Stacey Anne Henderson to pay the Board of Registered Nursing the  
26 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
27 Professions Code section 125.3;


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3. Taking such other and further action as deemed necessary and proper.

DATED:

3/28/11

*for* 

LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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